

Message Text

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PAGE 01 LAGOS 02453 261652 Z

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ACTION EB-11

INFO OCT-01 AF-10 ADP-00 FAA-00 SSO-00 CCO-00 L-03 CAB-09

CIAE-00 COME-00 DODE-00 INR-09 NSAE-00 RSC-01 INRE-00

SS-14 NSC-10 RSR-01 NSCE-00 /069 W

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O 261523 Z MAR 73

FM AMEMBASSY LAGOS

TO SECSTATE WASHDC IMMEDIATE 8904

LIMITED OFFICIAL USE LAGOS 2453

FOR FROMAN/ B. DOYLE, NATIONAL TRANSPORTATION SAFETY
BOARD FROM HOLSTINE/ PIPER

E. O. 11652: N/ A

TAGS: ETRN, NI

SUBJECT: KANO AIRCRAFT ACCIDENT INVESTIGATION

1. BEGIN SUMMARY: IN SPITE MOT' S IMPLICIT ACCEPTANCE OF OUR
STIPULATION THAT US PARTICIPANTS IN KANO AIRCRAFT AC-
CIDENT INVESTIGATION WOULD NOT BE SUBJECT TO CROSS
EXAMINATION, PRESIDING JUDGE HAS ASKED THAT HOLSTINE
PRESENT NTSB FLIGHT RECORDER DATA AND SUBJECT HIMSELF
TO CROSS EXAMINATION. HOLSTINE PROPOSING ALTERNATIVES
AND REQUESTING GUIDANCE. END SUMMARY.

2. HOLSTINE AND PIPER PRESENTED FR/ CVR DATA TO ASSES-
SORS AND ADVISORS AT KANO THURSDAY AND FRIDAY, MARCH 22/23.
JUDGE BELLO ADJOURNED INQUIRY FRIDAY, MARCH 23 UNTIL
MONDAY, APRIL 2. HOLSTINE AND PIPER MEETING IN LAGOS
WITH PRINCIPAL STATE COUNSEL MR DAVID WEST AND TECHNICAL
PANEL TUESDAY, MARCH 27 TO FURTHER EXPLAIN FR DATA
GRAPH PRINT- OUT AND HOPEFULLY LISTEN TO FULL CVR TAPE
WHOSE PLAYBACK LIMITED IN KANO BECAUSE OF POWER FAILURES.

3. JUDGE BELLO REQUESTS OFFICIAL PRESENTATION TO INQUIRY
OF NTSB FLIGHT RECORDER DATA BY TECHNICAL FR EXPERT
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PAGE 02 LAGOS 02453 261652 Z

WHO WOULD BE SUBJECT TO SOME CROSS EXAMINATION. SINCE HOLSTINE AND PIPER ARE INQUIRY ADVISORS ONLY, HOLSTINE ADVISED JUDGE BELLO THAT SUCH PRESENTATION CANNOT BE MADE BY HIMSELF AND PIPER. HOLSTINE SUGGESTED THAT NIGERIAN INVESTIGATOR- IN- CHARGE, MR GBOGBOABE, PRESENT DATA, BUT JUDGE BELLO'S STAND IS THAT NIGERIAN IIC IS NOT TECHNICALLY QUALIFIED TO ANSWER TECHNICAL QUESTIONS FROM CROSS EXAMINATION RE ACTUAL REDUCTION OF DATA FROM FLIGHT RECORDER FOIL, PARTICULARLY MECHANICS INVOLVED.

4. HOLSTINE INTENDS TO PROPOSE TO JUDGE BELLO THAT HE BE ALLOWED TO PRESENT DATA WITHOUT CROSS EXAMINATION. HE WOULD SUGGEST THAT BEFORE FORMAL PRESENTATION HE AND PIPER BRIEF LAWYERS FOR INTERESTED PARTIES INFORMALLY AND OFF- RECORD REGARDING MEANING OF DATA. THEN FORMAL QUESTIONS, IF ANY, COULD BE ANSWERED BY NIGERIAN PARTICIPANTS IN INQUIRY. HOWEVER, JORDANIANS, AT LEAST, ARE LIKELY TO OBJECT TO PROCEDURE THAT WOULD DEPRIVE THEM OF FULL CROSS EXAMINATION PRIVILEGES, SO THIS ALTERNATIVE WILL PROBABLY NOT BE ACCEPTED.

5. IF JUDGE BELLO CONTINUES TO PRESS HIS REQUEST THAT DATA BE PRESENTED BY OFFICIAL SUBJECT TO CROSS EXAMINATION, HOLSTINE AND PIPER WILL CONTINUE TO INSIST THAT NEITHER HAS SUFFICIENT QUALIFICATIONS. FMG WILL ALSO BE REMINDED THAT USG STIPULATED AT TIME OF FORMATION OF INQUIRY THAT NEITHER HOLSTINE NOR PIPER WOULD BE SUBJECT TO CROSS EXAMINATION. FMG THEN ALMOST CERTAIN TO ASK THAT NTSB CONSIDER SENDING FULLY QUALIFIED TECHNICAL EXPERT FROM US (HOPPER OR RAWSON). TO MAKE SUCH REQUEST EASIER TO DEAL WITH, JUDGE BELLO WILL UNDOUBTEDLY INSIST THAT QUESTIONING WILL BE RESTRICTED SO THAT US EXPERT WOULD NOT BE PLACED IN COMPROMISING POSITION. HE LIKELY LIMIT QUESTIONING LITERALLY TO ESTABLISHMENT OF FACTS AND TO RULE OUT ANY DIRECT QUESTIONS REGARDING OPINION OF CAUSE OF ACCIDENT OR BLAME FOR IT.

6. SHOULD NTSB STILL REFUSE TECHNICAL HELP THERE WOULD BE A NEED MAKE SOME SUGGESTION RESPONSIVE TO FMG'S PROBLEM. COULD YOU SUPPLY LIST OF INDEPENDENT QUALIFIED EXPERTS WHO MIGHT BE AVAILABLE ON SHORT NOTICE, LIMITED OFFICIAL USE

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PAGE 03 LAGOS 02453 261652 Z

E. G. FAIRCHILD FLIGHT RECORDER TECHNICIANS. (FMG WOULD,

OF COURSE, HAVE TO BEAR ALL EXPENSES CONNECTED WITH
PROCURAL OF NON- GOVERNMENT EXPERT.)

7. PIPER HAS DISCUSSED PROBLEM OF PRESENTATION OF
DATE WITH PRATER HOGUE OF BOEING/ SEATTLE WHO WILL BE
IN TOUCH WITH NTSB.

8. HOLSTINE WILL PLACE TELEPHONE CALL TO FROMAN/ DOYLE
(202-426-3920) FOR TUESDAY, MARCH 27 BETWEEN 9:00 AM
AND 12:00 NOON EST, WHICH TIMING WILL PERMIT ACCOUNT
TO BE TAKEN OF PRINCIPAL STATE COUNSEL WEST' S VIEW
OF HOW DATA PRESENTATION PROBLEM MAY BE HANDLED. IN
ANY CASE WE WILL NEED DEFINITIVE REACTION BY THURSDAY,
MARCH 29.
DECONTROL ON RECEIPT.
REINHARDT

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*** Current Handling Restrictions *** n/a

*** Current Classification *** LIMITED OFFICIAL USE

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